

BR

MAY 5, 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RECEIVED

Dorothy Murphy )

P.O. Box #108117 )

Chicago, IL 60610 )

(Name of the plaintiff or plaintiffs) )

v. )

Fairmont Care Center )

5061 N. Pulaski )

Chicago, IL 60630 )

(Name of the defendant or defendants) )

~~Amended~~ Complaint

CIVIL ACTION

NO. 08CV2027

Judge SHADUR

Mag, Judge ASHMAN

APR 29 2008  
APR 29, 2008  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT.COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.

2. The plaintiff is Dorothy Murphy of the  
county of COOK in the state of IL.3. The defendant is Fairmont Care Center, whose  
street address is 5061 N. Pulaski.(city) Chicago (county) COOK (state) IL (ZIP) 60630(Defendant's telephone number) (212) - 604-8112

4. The plaintiff sought employment or was employed by the defendant at (street address)

5061 N. Pulaski (city) Chicago(county) COOK (state) IL (ZIP code) 60630

5. The plaintiff [*check one box*]

- (a) ☒ was denied employment by the defendant.  
 (b) ☒ was hired and is still employed by the defendant.  
 (c) ☐ was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about,

(month) February, (day) 20, (year) 2007. *continuing on about June 15, 2007*

7.1 (*Choose paragraph 7.1 or 7.2, do not complete both.*)

(a) The defendant is not a federal governmental agency, and the plaintiff [*check*

*one box*] ☐ *has not* filed a charge or charges against the defendant  
☒ *has*

asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

(i) ☐ the United States Equal Employment Opportunity Commission, on or about

(month) March (day) 20 (year) 2007.

(ii) ☐ the Illinois Department of Human Rights, on or about

*June 15, 2007*  
 (month) April (day) 15 (year) 2007.

(b) If charges *were* filed with an agency indicated above, a copy of the charge is

attached. ☒ YES. ☐ NO, but plaintiff will file a copy of the charge within 14 days. *Fact Finding Hearing with Human Rights*

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☐ Yes (month) \_\_\_\_\_ (day) \_\_\_\_\_ (year) \_\_\_\_\_

☐ No, did not file Complaint of Employment Discrimination

(b) The plaintiff received a Final Agency Decision on (month) \_\_\_\_\_  
(day) \_\_\_\_\_ (year) \_\_\_\_\_.

(c) Attached is a copy of the

(i) Complaint of Employment Discrimination,

☒ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☒ YES ☐ NO, but a copy will be filed within 14 days.

8. (Complete paragraph 8 only if defendant is not a federal governmental agency.)

(a) ☐ the United States Equal Employment Opportunity Commission has not issued  
a *Notice of Right to Sue*.

(b) ☒ the United States Equal Employment Opportunity Commission has issued a  
*Notice of Right to Sue*, which was received by the plaintiff on  
(month) February (day) 8 (year) 2008 a copy of which  
*Notice* is attached to this complaint.

but I  
received on  
February  
19, 2008

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

(a) ☒ Age (Age Discrimination Employment Act).

(b) ☒ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

- (c) ☒ Disability (Americans with Disabilities Act or Rehabilitation Act)
- (d) ☐ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (e) ☒ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).
- (f) ☐ Religion (Title VII of the Civil Rights Act of 1964)
- (g) ☐ Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).
11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant [*check only those that apply*]

- (a) ☐ failed to hire the plaintiff.
- (b) ☐ terminated the plaintiff's employment.
- (c) ☒ failed to promote the plaintiff.
- D.M. (d) ☒ failed to reasonably accommodate the plaintiff's religion.
- (e) ☒ failed to reasonably accommodate the plaintiff's disabilities.
- (f) ☒ failed to stop harassment;
- (g) ☒ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) ☒ other (specify): *cause I went to union, I have 5475 \$ yearly performed my duties as a Certified Nursing Assistant and have been employed with Respondent since NOV 16, 2006*

- <sup>denied</sup>  
 I was full time position when a position was available, I was denied to participate in the S.C. 70, Local Union; I was also denied my Holiday pay for Memorial day I was denied an <sup>on being</sup> ~~on being~~ <sup>of health and welfare pension plan</sup> ~~of health and welfare pension plan~~, cause they kept me at
13. The facts supporting the plaintiff's claim of discrimination are as follows:

I again try to get legal help, I have <sup>part-time</sup> ~~part-time~~ <sup>employee</sup> ~~employee~~ perform my work or duties

Satisfactorily as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006

I was in a collective Bargaining Agreement, I was also denied to file a grievance, <sup>I have seniority over the other protective</sup> ~~I have seniority over the other protective~~

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully <sup>class</sup> ~~class~~ discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. ☒ YES ☐ NO <sup>where</sup> ~~where~~ <sup>requesting</sup> ~~requesting~~

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff [check only those that apply]

- (a) ☐ Direct the defendant to hire the plaintiff.
- (b) ☐ Direct the defendant to re-employ the plaintiff.
- (c) ☒ Direct the defendant to promote the plaintiff.
- (d) ☒ Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) ☒ Direct the defendant to reasonably accommodate the plaintiff's disabilities.
- (f) ☒ Direct the defendant to (specify): other relief and

grant the plaintiff fulltime  
or such reliefs that the courts  
deem appropriate

<sup>try</sup> ~~try~~ <sup>to</sup> ~~to~~ <sup>obtain</sup> ~~obtain~~ <sup>legal</sup> ~~legal~~ <sup>help</sup> ~~help <sup>assistance</sup> ~~assistance~~ <sup>yellow pages</sup> ~~yellow pages~~ <sup>etc.</sup> ~~etc.~~~~

or know that plaintiff  
 accumulate emotional abuse,  
 harassment, distress, loss  
 back pay, retroactive wages, other  
 benefits (cause of retaliation and harassment  
 employee has rights which  
 was violated)

(g) ☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) ☒ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Dorothy Murphy

(Plaintiff's name)

Dorothy Murphy

(Plaintiff's street address)

5310 W. Northavenue #2

Mailing address - Chicago IL 60639

P.O. Box # 10817

(City) Chicago (State) IL (ZIP) 60610

(Plaintiff's telephone number) (773) 544-6884

Date: 4-29-05

EEOC Form 181-B (3/96)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Dorothy M. Murphy  
5310 W North Ave #2  
Chicago, IL 60630

From: Chicago District Office  
500 West Madison St  
Suite 2800  
Chicago, IL 60661

CERTIFIED MAIL 7099 3400 0014 4054 3157



On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21B-2007-01962

Armernola P. Smith,  
State & Local Coordinator

(312) 886-5973

(See also the additional information enclosed with this form.)

## NOTICE TO THE PERSON AGGRIEVED:

**Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA):** This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)



More than 180 days have passed since the filing of this charge.



Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.



The EEOC is terminating its processing of this charge.



The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:



The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.



The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

John P. Rowe

John P. Rowe,  
District Director

2/8/2008

(Date Mailed)

Enclosures(s)

cc: FAIRMONT CARE CENTER

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.

#07W0618-14

**AGENCY**☒ IDHR☐ EEOC**CHARGE NUMBER**

2007CA3443

**Illinois Department of Human Rights and EEOC****NAME (indicate Mr. Ms. Mrs.)**

Ms. Dorothy Mae Murphy

**HOME TELEPHONE (include area code)**

(773) 544-6884

**STREET ADDRESS**

5310 W. North Avenue; Apt. #2

**CITY, STATE AND ZIP CODE**

Chicago, IL. 60639

**DATE OF BIRTH**

02/14/62

**NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)**

**NAME**

Fairmont Care Center

**NUMBER OF EMPLOYEES, MEMBERS 15+****TELEPHONE (Include area code)**

(773) 604-8112

**STREET ADDRESS**

5061 North Pulaski Road

**CITY, STATE AND ZIP CODE**

Chicago, IL. 60630

**COUNTY**

Cook (031)

**CAUSE OF DISCRIMINATION BASED ON:**

**Race**      **Age**      **National Origin**      **Physical Handicap**

**DATE OF DISCRIMINATION**

**EARLIEST (ADEA/EPA) LATEST (ALL)**  
06/21/07

☐ CONTINUING ACTION

**THE PARTICULARS ARE (if additional space is needed attach extra sheets)**

**I. A. ISSUE/BASIS**

**UNEQUAL TERMS AND CONDITIONS OF EMPLOYMENT, BEGINNING ON OR ABOUT FEBRUARY 20, 2007 AND CONTINUING THROUGH JUNE 15, 2007 BECAUSE OF MY RACE, BLACK.**

**B. PRIMA FACIE ALLEGATIONS**

1. My race is black.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.

(Continued)

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

**SUBSCRIBED AND SWORN TO BEFORE**

ME THIS 20th DAY OF June, 2007

*Yolanda G. Godwin*  
NOTARY SIGNATURE

OFFICIAL SEAL  
YOLANDA G GODWIN  
NOTARY PUBLIC - STATE OF ILLINOIS  
MY COMMISSION EXPIRES:09/21/07

NOTARY SEAL

X *Dorothy Murphy* 6-26-07  
SIGNATURE OF COMPLAINANT DATE

I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief



**Complainant:** Dorothy Mae Murphy

**Charge Number:** 2007CA3443

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3. Beginning on or about February 20, 2007 and continuing through June 15, 2007, I have experienced unequal terms and conditions of employment from Lynette (last name unknown; black), Respondent's Director of Nursing. Lynette has placed me under unequal terms and conditions of employment by denying me the opportunity to work overtime hours; by failing to give me the opportunity to become a full time instead of as a part time employee; by not allowing me to work enough hours to qualify for vacation and other benefits, and by engaging in other actions which I believe are unequal terms and conditions of employment. No documentation has been received from Lynette or any other member of Respondent's management which validates their reason for the unequal terms and conditions of employment.
4. I believe that there have been other, similarly situated, non-black certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that are having their issues addressed by management, and are not being harassed in the workplace by their co-workers as I have been.

## **II. A, ISSUE/BASIS**

**UNEQUAL TERMS AND CONDITIONS OF EMPLOYMENT, BEGINNING ON OR ABOUT FEBRUARY 20, 2007 AND CONTINUING THROUGH JUNE 15, 2007 BECAUSE OF MY AGE, 45.\**

### **B. PRIMA FACIE ALLEGATIONS**

1. I am 45 years of age.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.
3. Beginning on or about February 20, 2007 and continuing through June 15, 2007, I have experienced unequal terms and conditions of employment from Lynette (last name unknown; 30's), Respondent's Director of Nursing. Lynette has placed me under unequal terms and conditions of employment by denying me the opportunity to work overtime hours; by failing to give me the opportunity to become a full time instead of as a part time employee; by not allowing me to work enough hours to qualify for vacation and other benefits, and by engaging in other actions which I believe are unequal terms and conditions of employment. No documentation has been received from Lynette or any other member of Respondent's management which validates their reason for the unequal terms and conditions of employment.

(Continued)

**Complainant: Dorothy Mae Murphy**  
**Charge Number: 2007CA3443**  
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4. I believe that there have been other, similarly situated, younger certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that are having their issues addressed by management, and are not being harassed in the workplace by their co-workers as I have been.

### **III. A. ISSUE/BASIS**

**UNEQUAL TERMS AND CONDITIONS OF EMPLOYMENT, BEGINNING ON OR ABOUT FEBRUARY 20, 2007 AND CONTINUING THROUGH JUNE 15, 2007 BECAUSE OF MY NATIONAL ORIGIN, UNITED STATES OF AMERICA.**

#### **B. PRIMA FACIE ALLEGATIONS**

1. My national origin is the United States of America.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.
3. Beginning on or about February 20, 2007 and continuing through June 15, 2007, I have experienced unequal terms and conditions of employment from Lynette (last name unknown; USA), Respondent's Director of Nursing. Lynette has placed me under unequal terms and conditions of employment by denying me the opportunity to work overtime hours; by failing to give me the opportunity to become a full time instead of as a part time employee; by not allowing me to work enough hours to qualify for vacation and other benefits, and by engaging in other actions which I believe are unequal terms and conditions of employment. No documentation has been received from Lynette or any other member of Respondent's management which validates their reason for the unequal terms and conditions of employment.
4. I believe that there have been other, similarly situated, non-USA certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that are having their issues addressed by management, and are not being harassed in the workplace by their co-workers as I have been.

**(Continued)**

**Complainant:** Dorothy Mae Murphy  
**Charge Number:** 2007CA3443  
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**IV. A. ISSUE/BASIS**

**UNEQUAL TERMS AND CONDITIONS OF EMPLOYMENT, BEGINNING ON OR ABOUT FEBRUARY 20, 2007 AND CONTINUING THROUGH JUNE 15, 2007 BECAUSE OF MY PHYSICAL HANDICAP, MOBILITY DISORDER (KNEE INJURY).**

**B. PRIMA FACIE ALLEGATIONS**

- 1. I am handicapped within the meaning of Section 1-103(I) of the Human Rights Act.**
- 2. Respondent was aware of my condition.**
- 3. Beginning on or about February 20, 2007 and continuing through June 15, 2007, I have experienced unequal terms and conditions of employment from Lynette (last name unknown; non-handicapped), Respondent's Director of Nursing. Lynette has placed me under unequal terms and conditions of employment by denying me the opportunity to work overtime hours; by failing to give me the opportunity to become a full time instead of as a part time employee; by not allowing me to work enough hours to qualify for vacation and other benefits, and by engaging in other actions which I believe are unequal terms and conditions of employment. No documentation has been received from Lynette or any other member of Respondent's management which validates their reason for the unequal terms and conditions of employment.**
- 4. I believe that there have been other, similarly situated, non-handicapped certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that are having their issues addressed by management, and are not being harassed in the workplace by their co-workers as I have been.**
- 5. My handicapping condition does not prohibit me from performing the essential duties of my job, with reasonable accommodations.**

**V. A. ISSUE/BASIS**

**DENIED HOLIDAY PAY, ON OR ABOUT JUNE 21, 2007, BECAUSE OF MY RACE, BLACK.**

**(Continued)**

**Complainant: Dorothy Mae Murphy**  
**Charge Number: 2007CA3443**  
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**B. PRIMA FACIE ALLEGATIONS**

1. My race is black.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.
3. On or about June 21, 2007, I discovered that I was being denied holiday pay for the Memorial Day holiday. The holiday pay was not included with my check. No reason was given from the Respondent as to why I was being denied the holiday pay. No documentation has been received from any member of Respondent's management which validates their reason for the denial of holiday pay.
4. I believe that there have been other, similarly situated, non-black certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that have been issued holiday pay wages which I was denied.

**VI. A. ISSUE/BASIS**

**DENIED HOLIDAY PAY, ON OR ABOUT JUNE 21, 2007, BECAUSE OF MY AGE, 45.**

**B. PRIMA FACIE ALLEGATIONS**

1. I am 45 years of age.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.
3. On or about June 21, 2007, I discovered that I was being denied holiday pay for the Memorial Day holiday. The holiday pay was not included with my check. No reason was given from the Respondent as to why I was being denied the holiday pay. No documentation has been received from any member of Respondent's management which validates their reason for the denial of holiday pay.
4. I believe that there have been other, similarly situated, younger certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that have been issued holiday pay wages which I was denied.

(Continued)

**Complainant:** Dorothy Mae Murphy  
**Charge Number:** 2007CA3443  
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**VII. A. ISSUE/BASIS**

**DENIED HOLIDAY PAY, ON OR ABOUT JUNE 21, 2007, BECAUSE OF MY NATIONAL ORIGIN, UNITED STATES OF AMERICA.**

**B. PRIMA FACIE ALLEGATIONS**

1. My national origin is the United States of America.
2. I have satisfactorily performed my duties as a Certified Nursing Assistant, and have been employed with Respondent since November 16, 2006.
3. On or about June 21, 2007, I discovered that I was being denied holiday pay for the Memorial Day holiday. The holiday pay was not included with my check. No reason was given from the Respondent as to why I was being denied the holiday pay. No documentation has been received from any member of Respondent's management which validates their reason for the denial of holiday pay.
4. I believe that there have been other, similarly situated, non-USA certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that have been issued holiday pay wages which I was denied.

**VIII. A. ISSUE/BASIS**

**DENIED HOLIDAY PAY, ON OR ABOUT JUNE 21, 2007, BECAUSE OF MY PHYSICAL HANDICAP, MOBILITY IMPAIRMENT (KNEE INJURY).**

**B. PRIMA FACIE ALLEGATIONS**

1. I am handicapped within the meaning of Section 1-103(I) of the Human Rights Act.
2. Respondent was aware of my condition.
3. On or about June 21, 2007, I discovered that I was being denied holiday pay for the Memorial Day holiday. The holiday pay was not included with my check. No reason was given from the Respondent as to why I was being denied the holiday pay. No documentation has been received from any member of Respondent's management which validates their reason for the denial of holiday pay.

(Continued)

**Complainant: Dorothy Mae Murphy**  
**Charge Number: 2007CA3443**  
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4. I believe that there have been other, similarly situated, non-handicapped certified nursing assistants, such as Katrina Carlos, Terecita Agustin, and others, that have been issued holiday pay wages which I was denied.
5. My handicapping condition does not prohibit me from performing the essential duties of my job, with reasonable accommodations.

**ACF/JJT/RCG**